

APPEAL NO. 022965  
FILED JANUARY 6, 2003

This case returns following our remand in Texas Workers' Compensation Commission Appeal No. 022041, decided September 30, 2002. A contested case hearing on remand was held on October 29, 2002. The purpose of the remand was to permit the hearing officer to reconsider and resolve the issue of whether the appellant (claimant) is entitled to a change of treating doctor under Section 408.022 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 126.9 (Rule 126.9). On remand, the hearing officer determined that the claimant is not entitled to change from Dr. K to Dr. B. In his appeal, the claimant argues that the hearing officer erred in making that determination because the doctor-patient relationship between the claimant and Dr. K was severely jeopardized due to the communication problems that existed between them and because the claimant "was not receiving the appropriate medical treatment to reach maximum medical improvement [MMI]." In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant was not entitled to a change of treating doctor pursuant to Section 408.022 and Rule 126.9. A review of the hearing officer's decision demonstrates that he was not persuaded that the claimant sustained his burden of proving that he was entitled to a change of treating doctor under the criteria of Section 408.022 and Rule 126.9. The hearing officer was not convinced that the communication problems alleged by the claimant due to the fact that Dr. K did not speak Spanish and the claimant had to rely on his 14-year-old daughter for translation were of such a nature as to provide a basis for a change of treating doctor and he was acting within his province as the sole judge of the weight and credibility of the evidence under Section 410.165(a) in so finding. The hearing officer likewise was free to determine from the evidence of record that the claimant received appropriate medical treatment from Dr. K to reach MMI. Nothing in our review of the record reveals that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse the determination that the claimant is not entitled to a change of treating doctor on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TRANSCONTINENTAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL  
DALLAS, TEXAS 75201.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Edward Vilano  
Appeals Judge